COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: February 9, 2010
FILE NO: 2176890
ARB NO. 30-07

OFFICE CORRESPONDENCE

FROM: JOHN KALNAS, SERGEANT
ADVOCACY UNIT

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

ATTN: Linda Hemingway

SUBJECT: STEPHEN O'NEAL, DEPUTY SHERIFF, EMPLOYEE NO. [redacted]

On August 10, 2006, Deputy O'Neal was given his Letter of Intent. On August 14, 2006, Deputy O'Neal filed a grievance and it was denied throughout the grievance process. On February 20, 2007, Deputy O'Neal was notified that he was suspended without pay from his position of Deputy Sheriff, Item No. 2708A, with this Department for a period of two (2) days effective February 21, 2007 through February 22, 2007.

On March 13, 2007, Deputy O'Neal filed a Request For Arbitration seeking to have the charges against him determined to be unfounded. A hearing was granted. Arbitrator Thomas S. Kerrigan was appointed.

On January 27, 2010, the Department and Deputy O'Neal entered into a settlement agreement as follows:

1. The Department, upon execution of this agreement, shall rescind the two (2) day suspension that was imposed on February 21, 2007 through February 22, 2007 as specified in the Letter of Imposition dated February 20, 2007.

2. The Department will reimburse Deputy O'Neal for two (2) suspension days that were effective February 21, 2007 through February 22, 2007, as soon as practicable.

3. All charges pursuant to this matter will be deemed "Unresolved."

Please make any necessary changes in your records and to PPI to reflect the attached Settlement Agreement. If you have any questions regarding this matter, please contact me at [redacted]

JK:ddt

Attachments

COPY

In the matter of)
Stephen O'Neal, #[redacted])
and)
the Los Angeles County Sheriff's Department)

SETTLEMENT AGREEMENT
ARB #30-07

PRELIMINARY STATEMENT

This agreement is entered into between the Los Angeles County Sheriff's Department (hereinafter referred to as "Department") and Deputy Stephen O'Neal, Employee No. [redacted] (hereinafter referred to as "Deputy O'Neal")

RECITALS

The Department and Deputy O'Neal are interested parties in a dispute and desire to settle any and all matters involving Internal Affairs Bureau's Investigation Number 2176890. Both desire to avoid litigation and to settle all disputes and issues in said matter upon the terms and conditions hereinafter set forth.

NOW AND THEREFORE, the Department and Deputy O'Neal for and in consideration of the mutual covenants herein, agree as follows:

1. The Department, upon execution of this agreement, shall rescind the two (2) day suspension that was imposed on February 21, 2007 through February 22, 2007 as specified in the Letter of Imposition dated February 20, 2007.

2. The Department will reimburse Deputy O'Neal for two (2) suspension days that were effective February 21, 2007 through February 22, 2007, as soon as practicable

3. All charges pursuant to this matter will be deemed "Unresolved".

4. Moreover, Deputy O'Neal agrees to waive all rights in IAB Case Number 2176890, pursuant to Skelly v. State Personnel Board (1975) 15 Cal.3d 194 Cal.Rptr.14.

Settlement Agreement
Stephen O'Neal # [redacted]
Page 2

5. Deputy O'Neal agrees to waive any and all future administrative and/or judicial remedies with respect to the discipline as stated herein, including but not limited to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission and/or Superior Court.

6. The parties further agree that this settlement shall not be considered, cited or used in future disputes as establishing past precedent or past employment practice. This Agreement resolves the dispute between Deputy O'Neal and the Department, and is not to be applied to any other facts or disputes.

7. In consideration of the terms and conditions set forth herein, Deputy O'Neal agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Deputy O'Neal concerning the subject matter referred herein. Additionally, Deputy O'Neal specifically acknowledges that he has not been the subject of discrimination in any form, including, but not limited to, discrimination based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, parental status, or sex, and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known by him.

8. Deputy O'Neal further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

9. Each party hereto represents and agrees that he or it has carefully read and fully understands all of the provisions of the Agreement, and that he or it is voluntarily, without any duress or undue influence on the part of or on behalf of any party, entering into this Agreement.

10. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile transmission of the Agreement, including signatures, shall be deemed to constitute evidence of the Agreement having been executed.

Settlement Agreement
Stephen O'Neal #466195
Page 3

11. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this Agreement.

12. Upon execution of this agreement, Deputy O'neal or his union representative, will, within 10 days, withdraw his request for arbitration with the Employee Relations Commission under ARB No. 30-07.

13. The parties agree that the foregoing comprises the entire Agreement between the parties and that there have been no other promises made by any party. Any modification of this Agreement must be in writing.

I have read the foregoing Settlement Agreement and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

[redacted]

Stephen O'Neal, #[redacted] 01-21-2010
Date

As to Form Only:

Mitchell S. Kander, Esq. 1/25/2010
Green & Shinee
Date

For the Departments

Carl H. Deeley, Commander
Field Operations Region I
Date

Settlement Agreement
Stephen O'Neal #[redacted]
Page 3

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12. Upon execution of this agreement, Deputy O'neal or his union representative, will, within 10 days, withdraw his request for arbitration with the Employee Relations Commission under ARB No. 30-07.

13. The parties agree that the foregoing comprises the entire Agreement between the parties and that there have been no other promises made by any party. Any modification of this Agreement must be in writing.

I have read the foregoing Settlement Agreement and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

Stephen O'Neal, #[redacted]

Date

As to Form Only:

Mitchell S. Kander, Esq.
Green & Shinee

Date

For the Department:

Carl H. Deely, Commander
Field Operations Region I

01-27-10
Date

761551N25A - SH - AD - 32A (11/02)

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: May 11, 2006

FILE NO.:

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: CARL H. DEELEY, CAPTAIN
LANCASTER STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING, AUGUST 8, 2005, INVESTIGATION #IV2176890 (SH2152392)**

The purpose of this memo is to notify you of the Review Committee's findings and recommendations concerning the use of force incident which occurred on August 8, 2005.

The Committee met on July 27, 2006, and consisted of myself and Commanders Eric B. Smith (Leadership and Training Division) and Cecil W. Rhambo (FOR I).

The Committee deemed:

- as **Founded** the allegation that Deputy Stephen O'Neal #[redacted] violated the Department's Manual of Policy and Procedure Section 3-01/050.10: Performance to Standards, as it relates to 5-09/220.50: Foot Pursuits.

The Committee recommended that Deputy Stephen O'Neal #[redacted] be suspended for a period of **two days** with loss of pay and benefits.

JGJ:MAH:mh

TABLE OF CONTENTS

SH 2152392

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: AUGUST 8, 2005	Bureau/Station/Facility: LANCASTER	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 005-16529-1127-013	Date: AUGUST 8, 2005 Time: 0640
City or Station: LANCASTER	Nature of Incident: Dep. O'Neal confronted the susp. who had been involved in a traffic collision/roll over. The susp aggressed Dep O'Neal at which time Dep O'Neal tased the susp with no effect. Dep O'Neal became engaged with the susp. The susp knocked Dep O'Neal to the ground & continued punching Dep O'Neal. Dep. O'Neal fired one round, killing the susp.
Location: 30TH ST. WEST & NEWGROVE ST.	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, Street, Other: OPEN FIELD

Lighting (*circle only one*): Darkness, **Daylight**, Other, Street Lights

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance: 1 FOOT

Incident Type (*circle one or more*): Accidental, Armed Person, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, **Struggle Involved**, Traffic Stop, **Unarmed Person**, Unintentional, Vehicle Pursuit, Warrant Service, Other: ________

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, **One Person Unit**, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, **Other**, Routine Patrol

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
1	0

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	[redacted]	[redacted]		**EM** PM Day	**Regular** Overtime Off Duty
[redacted]	[redacted]	[redacted]	[redacted]	**EM** PM Day	**Regular** Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.			
[redacted]	[redacted]	[redacted]			
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**	
[redacted]	[redacted]	[redacted]		[redacted]	
Last Name		First Name		M.I.	
Street Address	City	Zip Code	Work Ph	Home Ph	
Last Name		First Name		M.I.	
Street Address	City	Zip Code	Work Ph	Home Ph	

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	PEREZ	JOHN	D.	**On Duty**, Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	HANDLEY	MICHAEL	A.

PSTD Use Only
SH # 2152392

See Reverse

Officer Involved Shooting

URN: 005-16529-1127-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
AUGUST 8, 2005	1010		

Employee #	Last Name	First Name	M.I
[redacted]	SMITH	RICHARD	G.
[redacted]	BAIRD	MARSHALL	W.
[redacted]	SENO	BENNETT	W.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AE) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	UC					NN	
S#1	E#1	RS					NN	
S#1	E#1	OB					NN	
S#1	E#1	PH					NN	
E#1	S#1	BI			Y		BR	AR
E#1	S#1	BI			Y		BR	SH
E#1	S#1	TR			Y		NN	
E#1	S#1	FH			Y	Y	DH	CH

Officer Involved Shooting
Involved Employee Information

URN: 005-16529-1127-013

Involved Employee

E 1

Employee # [redacted]	Last Name O'NEAL	First Name STEPHEN	M.I.
Sex: M Race: WHT	Rank DEPUTY SHERIFF	Unit Assignment: LANCASTER	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): (EM) PM Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 5'03" Weight: 135LBS			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]		Laser Training Date: [redacted]
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:		Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:		Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting  Suspect Information

URN: 005-16529-1127-013

Suspect Information

S 1

Last Name UPDYKE	First Name CLINT	M.I.
AKA Last Name	First Name	M.I.

Sex: M Race: WHT	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone:	Home Phone:	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 26 D.O.B. 12-22-78	Height: 5'06" Weight: 170	FBI # [redacted]	CII # [redacted]
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☒	Coroner Case # 2005-06014	Intoxication/Drug Usage? ☒	Substance Used: METHAMPHETAMINE
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make	FORD	Model: ESCORT	Year: 1992

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

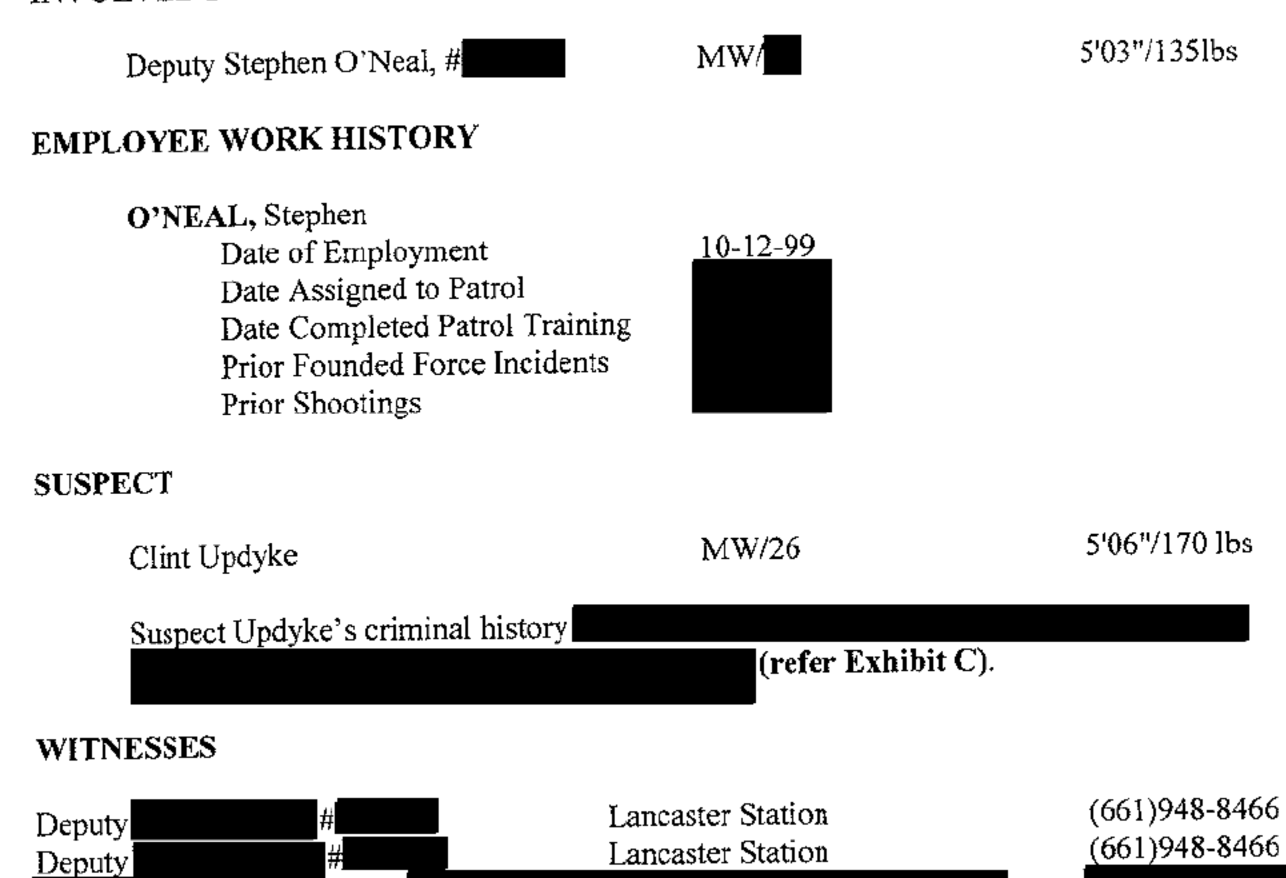
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

INVESTIGATIVE SUMMARY
USE OF FORCE
TYPE: DEPUTY INVOLVED SHOOTING-SUSPECT
I.A.B. FILE NUMBER: SH 2152392
URN: 005-16529-1127-013

On Monday August 8, 2005, Sergeants Richard Smith and Marshall Baird, along with Lieutenant Bennett Seno of the Internal Affairs Bureau responded to Newgrove Ave. and 30th St. West, Lancaster, regarding a Deputy Involved Shooting involving Lancaster Station personnel. Lieutenant Joe Hartshorne, Sergeants Richard Garcia, Mitchell Loman, Detectives Mitchell Robison and Jonas Shipe from Homicide Bureau were on scene to conduct the criminal investigation.

The summary of this incident is based on physical evidence collected at the scene by Los Angeles Sheriff's Department Crime Lab personnel as well as information obtained from interviews of the involved employees and witnesses, whose individual statements are contained in the Homicide Bureau case package **(refer Exhibit A)**.



INVOLVED PERSONNEL:

Deputy Stephen O'Neal, #[redacted]	MW/[redacted]	5'03"/135lbs

EMPLOYEE WORK HISTORY

O'NEAL, Stephen

Date of Employment	10-12-99
Date Assigned to Patrol	[redacted]
Date Completed Patrol Training	
Prior Founded Force Incidents	
Prior Shootings	

SUSPECT

Clint Updyke	MW/26	5'06"/170 lbs

Suspect Updyke's criminal history [redacted] **(refer Exhibit C)**.

WITNESSES

Deputy [redacted] #[redacted]	Lancaster Station	(661)948-8466
Deputy [redacted] #[redacted]	Lancaster Station	(661)948-8466
[redacted] MW/48	[redacted]	[redacted]

INJURIES

Deputy O'Neal complained of neck pain, and was treated at Antelope Valley Hospital.

Deputy [redacted] had an abrasion and swelling to his right ring finger and swelling to his left thumb.

Suspect Updykeis deceased. He had one gunshot wound to his chest. He also had several minor abrasions to his face, chest and arms as well as several bruises to his upper torso and arms.

PHYSICAL EVIDENCE

Approximately 152 feet west of the WCL of 30th St. West and approximately 241 feet 9 inches south of the SCL of Newgrove Ave., one expended Winchester brand 9MM shell casing and one live Winchester brand 9MM bullet were found at the location of the shooting.

One plastic baggie containing a white powdery substance and a two inch straw, commonly used for ingesting narcotics, was recovered at the traffic collision scene.

INVESTIGATOR OBSERVATIONS:

The location of the incident is a large vacant field on the south west corner of 30th St. West and Newgrove Ave., Lancaster, covered with dry sage brush and dirt **(refer Exhibits B, D, & E)**.

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy O'Neal fired one round of Department issued 9MM ammunition from his Department issued Beretta, Model 92FS, 9MM semi-automatic pistol, serial number BER[redacted]

WEAPONS USED BY SUSPECT

Suspect Updyke used a large dirt clod and his fists in his assault on Deputy O'Neal.

PROPERTY DAMAGE:

NONE

CRIMINAL INVESTIGATOR AND CHARGES FILED:

Homicide Bureau
Sergeant Richard Garcia, #[redacted]
Detective Mitchell Robison, #[redacted]

No charges were filed in this incident

LIGHTING OR WEATHER CONDITIONS:

This incident occurred during daylight hours and the weather was clear.

INVOLVED EMPLOYEE STATEMENT:

Deputy Stephen O'Neal, #[redacted]

Deputy O'Neal was interviewed on the day of the incident, August 8, 2005 by Homicide Bureau Sergeant Richard Garcia and Detective Mitchell Robison. Deputy O'Neal was also interviewed by Internal Affairs Bureau Sergeants Richard Smith and Marshall Baird on May 23, 2006. The following is a summary of those interviews.

On the day of the incident, Deputy O'Neal was working Unit 112B, EM, a one person marked patrol vehicle. He was wearing a Sheriff's Department Class A, short sleeved shirt with Sam Brown gun belt **(refer Exhibit F)**.

Deputy O'Neal said that he responded to a radio call of a traffic collision, vehicle rollover, at 30th St. West and Lancaster Blvd. When he checked the area, he found an empty vehicle in a ditch on Lancaster Blvd. west of 30th St. West. He received additional information via radio that the driver was a male wearing white T-shirt and blue shorts and that he had walked away from the vehicle. He said that he was contacted by a male and a female who advised him that the driver of the overturned vehicle was being chased by an unknown male and that they had run through a gate and over a fence onto 30th St. West. He drove to 30th St. West, where he was contacted by a male, later identified as Witness [redacted] Witness [redacted] pointed to a male, later identified as Suspect Updyke, who was walking toward a school bus, which was parked north of Newgrove Ave.

Deputy O'Neal said that he drove toward Suspect Updyke as the school bus drove away. He stopped, exited his radio car and contacted Suspect Updyke, asking him if he had been involved in a traffic collision. Suspect Updyke replied "no" and walked to the passenger side of the radio car. As Suspect Updyke reached the right rear passenger side window, he yelled "What the fuck is this? What did you do now?" Suspect Updyke began running toward the field on the

southwest corner of 30th St. West and Newgrove Ave **(refer Exhibit B)**. Deputy O'Neal broadcast emergent radio traffic that Suspect Updyke was running north on 30th St. West and drove his radio car to the intersection of 30th St. West and Newgrove Ave. Deputy O'Neal exited his radio car and re-contacted Suspect Updyke, ordering him to stop.

Deputy O'Neal said that Suspect Updyke stopped approximately twenty feet into the field on a graded portion of the field. Suspect Updyke picked up a large dirt clod, approximately eight inches thick and eighteen inches long, and began walking toward Deputy O'Neal. Believing that Suspect Updyke was going to assault him with the dirt clod, Deputy O'Neal deployed his taser. The taser appeared to strike Suspect Updyke in the torso. Suspect Updyke began to shake and

he dropped the dirt clod and jogged away from Deputy O'Neal. Deputy O'Neal followed Suspect Updyke into the field, activating the taser two or three additional times as he realized that the taser wires were still attached to Suspect Updyke. With each activation Suspect Updyke stopped and shook, but did not drop to the ground as Deputy O'Neal expected. As Deputy O'Neal activated the taser he also attempted to update his situation on his hand held radio; however, he did not hear his information being repeated over the radio.

Deputy O'Neal said that he activated the taser again and realized that Suspect Updyke had pulled the taser wires out of his body. Suspect Updyke moved toward him and Deputy O'Neal armed himself with his collapsible baton. As Suspect Updyke began striking him with fists, Deputy O'Neal began striking Suspect Updyke with his baton, during which Suspect Updyke told him "You fucking cops, I'm going to beat the shit out of you." Deputy O'Neal said that he struck Suspect Updyke approximately fifteen times in the arms and torso; however, the blows did not appear to have any effect on Suspect Updyke as he continued his attack. Suspect Updyke struck him in the chest with his fist and knocked him to the ground. As Deputy O'Neal was laying on the ground, Suspect Updyke stood over him and tried to strike him with his fists. Deputy O'Neal said that he kicked at Suspect Updyke to keep him away and protect himself from the assault. Suspect Updyke grabbed his left leg and began dragging him on the ground as he continued to yell threats.

Deputy O'Neal said that he was exhausted from the assault and was not sure he would survive the continuing attack by Suspect Updyke. He said that due to his exhaustion and the lack of effect of the taser on Suspect Updyke, he drew his duty weapon and told Suspect Updyke to stop or he would shoot him. Suspect Updyke failed to comply and continued to attack him. Deputy O'Neal fired one round from his duty weapon, striking Suspect Updyke in the upper torso. Suspect Updyke immediately stopped his assault, stood up and said "You fucking shot me." When Deputies [redacted] and [redacted] arrived, they gave Suspect Updyke commands to get on the ground. Suspect Updyke refused to comply and began to fight with the deputies. After approximately twenty seconds the deputies were able to subdue and handcuff Suspect Updyke.

Deputy O'Neal said that he has utilized a taser in prior patrol situations and on each occassion the suspect immediately dropped to the ground. He said that Suspect Updyke's lack of response to being tased surprised him. He said that he could hear sirens of the responding units and believed that he could contain Suspect Updyke until assisting units arrived, which he believed would be in a matter of seconds. He based his belief on the fact that the taser did stop Suspect Updyke's aggressive behavior while it was activated. Deputy O'Neal said that he was aware of the one person foot pursuit policy, but did not feel he was in foot pursuit of Suspect Updyke. He said that he was following for the purpose of containing Suspect Updyke until assisting units arrived.

> **I.AB. Note re:** Deputy O'Neal's radio car was parked approximately 158 feet north of the shooting scene on Newgrove Ave.

WITNESSES STATEMENTS:

Deputy [redacted] #[redacted]

Deputy [redacted] was interviewed on the day of the incident by Homicide Bureau Sergeant Richard Garcia and Detective Mitchell Robison. Deputy [redacted] was also interviewed by Internal Affairs Bureau Sergeant Richard Smith on May 19, 2006. The following is a summary of those interviews.

Deputy [redacted] said that he responded to a traffic collision, vehicle rollover, in the area of 30th St. West and Lancaster Blvd., along with Deputies O'Neal and [redacted] He said he drove westbound on Lancaster Blvd. and saw Deputies O'Neal and [redacted] walking away from a dirt field where he saw an overturned vehicle. He was told by the deputies that the vehicle was empty and he began searching the area for the driver. A citizen told him that the driver had walked southbound away from the vehicle. As he continued to check the area, he heard Deputy O'Neal advise, over the radio, that he had found the driver, later identified as Suspect Updyke, running southbound on 30th St. West into a field at 30th St. West and Newgrove Ave.

Deputy [redacted] said that he responded Code 3 to that location from Lingard Ave. and 31st St. West, a distance of approximately .3 of a mile and arrived in approximately 35 to 40 seconds. Upon arrival in the area of 30th St. West and Newgrove Ave., he saw Deputy O'Neal's radio car parked at that intersection. He stopped his radio car south of Newgrove Ave. and saw a male wearing a white T-shirt in the thigh high brush covered field on the southwest corner of 30th St. West and Newgrove Ave **(refer to Exhibits D & E)**. After exiting his radio car he saw the leg of a pair of green pants, a black boot and an arm extended, holding a handgun pointed at Suspect Updyke, who was standing over the green pant leg and appeared to be twisting the green pant leg from side to side.

Deputy [redacted] said that he believed that the green pant leg was Deputy O'Neal and began to run, approximately 250 feet, into the field. As he ran toward Deputy O'Neal, he saw Suspect Updyke

stagger backward and Deputy O'Neal begin to stand up. When he reached Suspect Updyke and Deputy O'Neal he began ordering Suspect Updyke at gun point to get on the ground, as did Deputy [redacted] who arrived almost simultaneously. Suspect Updyke refused to comply with their orders and Deputy [redacted] approached Suspect Updyke from the rear left. Deputy [redacted] began struggling with Suspect Updyke, during which Deputy [redacted] struck Suspect Updyke with his fists. Deputy [redacted] joined the struggle and Suspect Updyke was taken to the ground and handcuffed. It was at this point that he realized that Suspect Updyke had been shot.

Deputy [redacted] #[redacted]

Deputy [redacted] was interviewed on the day of the incident by Homicide Bureau Sergeant Richard Garcia and Detective Mitchell Robison. Deputy [redacted] was also interviewed by Internal Affairs Bureau Sergeant Richard Smith on May 9, 2006. The following is a summary of those interviews.

Deputy [redacted] said that he responded to 30th St. West and Lancaster Blvd. regarding a traffic collision; vehicle rollover. He located the empty vehicle west of 30th St. West and Lancaster Blvd. He was advised via Sheriff's radio that the driver, later identified as Suspect Updyke, had walked away from the collision site. As he checked the area he heard Deputy O'Neal advise, via radio, that he had located a male matching the suspect's description walking into a field at 30th St. West and Newgrove Ave.

Deputy [redacted] said that he responded to Deputy O'Neal's location, arriving in approximately 40 to 45 seconds. When he arrived, he saw Deputy O'Neal and Suspect Updyke standing in the field. He then saw Suspect Updyke move toward Deputy O'Neal and Deputy O'Neal suddenly fall backward and to the ground. Suspect Updyke continued to move toward Deputy O'Neal and stood over Deputy O'Neal.

Deputy [redacted] said that he exited his radio car and ran, approximately 250 feet, toward Deputy O'Neal. When he reached Deputy O'Neal, he saw Deputies [redacted] and O'Neal pointing their weapons at Suspect Updyke and ordering Suspect Updyke to get on the ground; however, Suspect Updyke was not complying with their orders. He said that he moved to the left side of Suspect Updyke and grabbed his arm. Suspect Updyke shrugged his shoulder to disengage Deputy [redacted] hand. Due to Suspect Updyke's earlier fight with Deputy O'Neal, Deputy [redacted] struck Suspect Updyke with his fists four or five times in the head as Suspect Updyke continually tried to strike him with his elbows. He said that he repeatedly ordered Suspect Updyke to the ground as this was occurring. Suspect Updyke went to his knees and as he did so, grabbed Deputy [redacted] pant leg and leg. Deputy [redacted] said that he kneed Suspect Updyke four to five times in the head to stop Suspect Updyke's assaultive behavior and Suspect Updyke went to the ground where he was handcuffed.

[redacted]

Witness [redacted] said that he was at a construction site on the south side of Lancaster Blvd. West of 30th St. West when he heard the sound of a vehicle crash. Looking over a block wall he saw smoke, but no vehicle. After jumping over the wall, he saw an empty vehicle overturned in a ditch on the north side of Lancaster Blvd. After calling 9-1-1, he saw a male, later identified as Suspect Updyke, who had exited from the overturned vehicle, walking away. He told Suspect Updyke to sit down and that the police were coming.

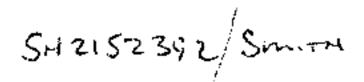
Witness [redacted] said that he saw a vehicle stopped in the street and spoke with the female driver, who told him that Suspect Updyke had been involved in a "road rage" incident and had been run off the road. After speaking with the female, he saw Suspect Updyke continuing to walk away. Witness [redacted] said that he followed Suspect Updyke to 30th St. West where the suspect began running southbound on 30th St. West. On 30th St. West north of Newgrove Ave. he saw Suspect Updyke pounding on the door of a school bus in an apparent attempt to enter. He said he saw a radio car approaching and pointed Suspect Updyke out to the deputy. As the deputy drove toward Suspect Updyke, Suspect Updyke began running southbound on 30th St. West away from the deputy. The deputy made contact with Suspect Updyke at 30th St. West and Newgrove Ave.

Witness [redacted] said that after making a phone call to his boss on his cell phone, he next saw Suspect Updyke running away from the deputy. He said that he could hear a taser being activated and believed that the deputy had tased Suspect Updyke; however, the taser did not appear to have any effect on Suspect Updyke. He saw Suspect Updyke and the deputy in the field on the southwest corner of 30th St. West and Newgrove Ave., and Suspect Updyke was advancing on the deputy. The deputy began striking Suspect Updyke with his baton, but this too had no effect on Suspect Updyke. He then saw the deputy was on the ground and Suspect Updyke was standing over him; however, he had no idea how this occurred.

Witness [redacted] said that he saw two additional radio cars arrive and he then heard a single gunshot. Two deputies ran to Suspect Updyke's location where Suspect Updyke continued to be resistive and combative. After approximately ten seconds the deputies were able to get Suspect Updyke to the ground where they continued to struggle with Suspect Updyke for an additional ten seconds. He said the deputies told Suspect Updyke to stop resisting in order for the paramedics, who had arrived very quickly, to treat him.

SUSPECT STATEMENT:

Suspect deceased.





LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
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JANICE L. MAURIZI • Director

January 26, 2006

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File No. 05-0474
L.A.S.D. File No. 005-16529-1127-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 8, 2005, fatal shooting of Clint Edward Updike by Los Angeles County Sheriff's Deputy Stephen O'Neal. It is the conclusion of this office that Deputy O'Neal acted lawfully in self defense.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department Homicide Bureau, submitted to this office on January 18, 2006, by Sergeant Richard Garcia and Detective Mitchell Robison. No compelled statements were reviewed. The District Attorney Command Center was notified of this shooting at 8:20 a.m. on August 8, 2005. The District Attorney Response Team, consisting of Deputy District Attorney Daniel W. Baker and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the incident and a walk through of the scene by Lieutenant Joe Hartshorne. They interviewed one witness in conjunction with investigators from the Los Angeles County Sheriff's Department.

At approximately 6:42 a.m. on August 8, 2005, uniformed Los Angeles County Sheriff's Deputy Stephen O'Neal attempted to detain Clint Edward Updyke, who had fled the scene of an earlier traffic collision. As O'Neal approached Updyke on foot, Updyke picked up a large dirt clod and walked toward O'Neal. Fearing that Updyke was going to attack him, O'Neal deployed his

Taser. The Taser darts struck Updyke in the chest. Updyke turned and ran briefly away, but suddenly turned toward O'Neal again and pulled the Taser wires out of the Taser. Updyke then began to punch O'Neal. O'Neal responded by using his baton on Updyke, with no apparent effect. Updyke shouted, "You fucking cops, I'm going to beat the shit out of you," and punched O'Neal in the chest. The force of the blow knocked O'Neal to the ground. Updyke stood over him and began throwing punches. O'Neal kicked at Updyke, but Updyke grabbed O'Neal's leg and began to drag him along the ground. O'Neal, exhausted and no longer able to ward off Updyke, drew his gun and told Updyke that if he did not stop he would be shot. Updyke continued attacking O'Neal. While prone on his back, O'Neal, fearful for his safety, fired one round at Updyke, fatally wounding him. Updyke was measured by the Medical Examiner to be 5 feet 4 inches tall and weigh 160 pounds. The Medical Examiner's toxicology screen revealed the presence of both Amphetamine and Methamphetamine in Updyke's blood. O'Neal's height and weight were not recorded.

Pursuant to California law, a person is justified in using deadly force in self-defense when that person reasonably believes that he or she is in imminent danger of being killed or suffering great bodily injury and that the use of deadly force is necessary to protect against that danger. *Judicial Council of California Criminal Jury Instructions 505.*

The evidence reviewed in this investigation indicates that Clint Updyke attacked Deputy O'Neal, and persisted in his attack even after he had been commanded to stop. Further, there was a real danger that Updyke would overpower O'Neal and gain control of O'Neal's gun. Therefore, it is our opinion and legal conclusion that Deputy O'Neal acted lawfully in self-defense. We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Daniel W. Baker

DANIEL W. BAKER
Deputy District Attorney

c: Deputy Stephen O'Neal #[redacted]